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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,292	10/17/2003	Alan M. Zamore	2003-6	6496
26694	7590	05/01/2008	EXAMINER	
VENABLE LLP P.O. BOX 34385 WASHINGTON, DC 20043-9998				JACKSON, MONIQUE R
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
05/01/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/688,292	ZAMORE, ALAN M.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Monique R. Jackson	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 28 January 2008.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-22,24,25 and 35-47 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-22,24,25 and 35-47 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>1/08</u> .	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

1. The amendment filed 1/28/08 has been entered. Claim 23 has been canceled. New claims 37-47 have been added. Claims 1-22, 24, 25, and 35-47 are pending in the application. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Objections***

2. It is noted that the claims submitted 1/28/08 contain minor errors that may have resulted from scanning the previous claim sheets which were not completely clear and contained breaks in the lettering. Hence, the following objections are made:
3. Claim 3 is objected to because of the following informalities: "chat" in line 2 should be "that". Appropriate correction is required.
4. Claims 16 objected to because of the following informalities: the period or dot between "end" and "relative" in line 3 should be deleted. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-21, 25 and 35-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Crofts (USPN 4,467,002.) Crofts teaches an axially restrained-shrunk polymeric tubing intermediate having dimensional heat-recoverable properties or plastic memory, wherein the intermediate tubing is produced by extruding or molding a polymer into a desired tubular shape,

such as those shown in the figures (which read upon the claimed "catheter", "balloon", and "tubular element" limitations including diameter and expandable portion limitations), optionally crosslinking the polymer, and expanding the tube radially while restraining the tube so that there is little to no increase in length or change in dimension perpendicular to the direction of expansion (Col. 1; Col. 3, lines 38-Col. 4, line 65; Col. 7, lines 10-21.) Crofts teaches that the polymer may be selected from various polymers including polyethylene, polypropylene, polyamides, elastomers and polymer compositions as disclosed in USPN 4,275,180, which includes polyether ester block copolymers; may be tailored to suit the intended use; and may be crosslinked by the incorporation of a chemical crosslinking agent or by exposure to high energy radiation (Col. 4, lines 1-21.) With regards to the instantly claimed compliance/compliant limitations, the Examiner takes the position that the axially restrained-shrunk polymeric tubing taught by Crofts would inherently possess the same properties as instantly claimed considering it is produced by the same materials and process as the instantly claimed "catheter balloon". With regards to the terms "catheter balloon", "catheter", and "medical dilatation device", though Crofts does not specifically teach the use of the dimensionally recoverable polymer article as a catheter or medical dilatation device, the Examiner takes the position that these limitations constitute intended use of the tubular element and do not provide any additional structural or material limitations to differentiate it from the tubular element taught by Crofts.

***Claim Rejections - 35 USC § 103***

7. Claims 22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crofts in view of Clarke (USPN 4,275,180.) The teachings of Crofts are discussed above. Though Crofts teaches that the polymer tubing may be formed from various polymers that may be

chemically crosslinked or crosslinked by radiation, including polyamides and polymer compositions as disclosed in Clarke, Crofts does not specifically teach that the polymer is a polyamide/polyether polyester as claimed. However, Crofts does disclose polyamides and also provides a suggestion of utilizing polymer compositions comprising polyester block copolymers including polyether polyester block copolymers as disclosed by Clarke (Col. 3, line 25-Col. 4, line 33), and hence it would have been obvious to one having ordinary skill in the art at the time of the invention to select from any of the polymers taught by Crofts in view of Clarke or copolymers thereof, including the instantly claimed polyamide/polyether block polyesters.

***Response to Arguments***

8. Applicant's arguments filed 1/28/08 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R. Jackson whose telephone number is 571-272-1508. The examiner can normally be reached on Mondays-Thursdays, 10:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Monique R Jackson/  
Primary Examiner, Art Unit 1794  
April 27, 2008